



**Quantum
Logic
Devices**

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Mr. Gary Jackson
Assistant Administrator for Size Standards
Small Business Administration
409 Third Street S.W.
Mail Code 6530
Washington, DC 20416

Subject: RIN 3245-ZA02
Selected Size Standard Issues

28 February 2005

Dear Mr. Jackson,

Quantum Logic Devices is a small nanotechnology firm located in Austin, TX. We are engaged in leading edge R&D of revolutionary biomedical diagnostic tools, and depend heavily on Federal contracts and research grants for funding. We expect to have an enormous impact on healthcare and the US economy and expand to support thousands of high-paying jobs. I am alarmed by recent proposals by the SBA that will make it more difficult for small business, like QLD, to obtain this assistance. Specifically, revisions to the Size Standards that are currently being contemplated.

It has already been documented that under the current system, large corporations are obtaining monies that have been aimed at small businesses. This happens either through subsidiaries, franchises, or grandfathering clauses. It is similarly appalling that start-up companies backed by deep-pocketed VC firms are also allowed to win grants set-aside for small business (as per recent interpretations of ownership rules). In both cases, the involvement of large corporations or VC's reflects that the technology/product is "ready for market" and does not need Federal assistance to develop further.

As a specific example, Quantum Logic Devices has been developing an exciting new technology that offers the simplicity of home pregnancy test kits for a broad range of health diagnostic applications. We have been repeatedly told, by VC firms and potential large corporate partners alike, to "come back when you have a product in the market." Thus, neither of these funding sources are willing to support technology development, but are focused on commercialization alone. *It is a travesty that these groups should also be allowed to prevent QLD (and other small businesses in similar circumstances) from obtaining the only money available – federal small business contracts and grants.*

I propose the following changes to restore the focus of Small Business Administration focus:

- The Comprehensive Test Program needs to be eliminated immediately. This program allows major prime contractors to ignore their small business goals.

- The Liquidated Damages clause in prime contracts needs to be enforced.
- Any exceptions to the \$100,000 set-side need to be eliminated.
- Section 16d of the Small Business Act needs to be enforced.
- A warning needs to be placed on the Central Contractor Registry (CCR) stating that misrepresenting your company as a small business is a felony. The SBA needs to more aggressively pursue, investigate and prosecute cases of blatant fraud including NAICS misrepresentation.

The SBA should eliminate any current policy, loophole, or rule that allows large businesses, subsidiaries of large businesses, affiliates of large businesses and publicly traded companies, or VC-backed companies not complying with the small business ownership rule to receive contracts that are counted as small business contracts. The SBA needs to strictly enforce existing laws that require the punishment of firms misrepresenting their small business status. In addition, prosecution of any individuals or agencies that facilitate large businesses fraudulently obtaining small business contracts needs to be accelerated.

Response to the SBA's Issues for Comment:

1) Are the current size standards difficult to understand?

No, they just need to be enforced.

2) What are alternatives to the current methods of calculating the employment size of a business?

I agree with using FTEs to calculate the number of employees over the preceding 12 months (including both full and part time employees).

3) Should the SBA continue to use receipts-based size standards or establish size standards based exclusively on number of employees?

The current receipt-based standards should be replaced with a common standard for all industries, reflecting a "viability threshold" over which a business is able to sustain it's operations and places it in a development or commercialization mode instead of research.

4) Should the current process for applying size standards to Federal procurements be modified? Should a separate set of size standards be established specifically for Federal procurement or would this needlessly complicate size standards?

No. See above.

5) Should the SBA establish a tiered system of size standards?

No. This could further limit small business while complicating the process.

6) What are ways to clarify the SBA's affiliation regulations?

I think that the current regulations are good, but should eliminate exemptions.

7) Should the SBA continue using its joint venture eligibility criteria?

The current SBA policy of limiting a small business joint venture to three offerings over a 2-year period is appropriate.

8) What are the approaches the SBA could take to “grandfather” small businesses that may be adversely impacted by any future restructuring?

Grnadfathering should be eliminated.

9) What is the possible impact on other federal agencies if the size standards are changed?

There will be no impact to agencies following the existing rules. Thus, any changes will be for the good of the program.

10) Should the SBA provide an exclusion from affiliation for venture capital companies (VCC) in size determinations for eligibility for the SBIR Program?

No exclusion should be allowed. Venture Capitalists do not fund early-stage research and development so should be ineligible for small-business grants that support early-stage R&D. VC firms are often aligned with larger corporations, and as such, represent an undermining of the size eligibility rules for small business.

I appreciate this opportunity to provide input on behalf of Quantum Logic Devices and look forward to your office’s efforts to protect small business.

Sincerely,



Louis C. Brousseau, PhD
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